

Notice of motion for Greater Wellington Regional Council (GWRC) Nov 4th 2015**1: Purpose**

This motion is to ensure that the Council conducts a proper analysis of likely impacts of the Transpacific Partnership Agreement (TPPA) on its functions and areas of influence.

2: Background

Concluding negotiations on the Trans-Pacific Partnership and Free Trade Agreements in a way that provides net positive benefits for all New Zealanders is a real concern to local government.

Councils representing 60% of the NZ population adopted a TPP Policy Solution http://www.actionstation.org.nz/tpa_policy_solution (Attachment 1). This is included as background to provide context of other matters under consideration by local authorities.

The TPP agreement was considered by GWRC on 12 December 2013 with the following motion passed (attachment 2) http://www.gw.govt.nz/assets/council-reports/Report_PDFs/2013.1049_ME.pdf

It is anticipated that the full TPP text will be known and up on the MFAT website along with a National Impact Analysis at the time this motion is to be considered. Once signed, possibly March 2016, the Parliamentary process is triggered.

The NZ ratification process is laid out in the Cabinet rule 7.112 and this link to Chapter 43 of the Parliamentary Rules on International Relations (see 'Treaties' sub heading): http://www.parliament.nz/en-nz/about-parliament/how-parliament-works/ppnz/00HOOOCPNZ_431/chapter-43-international-relations

3: Comment

The work Councils can do on behalf of their own interests and those of the public is to make themselves aware in a public manner of the TPP implications.

The Report of the United Nations Independent Expert Alfred de Zayas urged the UN system and Governments across the world to radically reform the international investment regime by putting an end to free trade and investment agreements that conflict with human rights treaty obligations. In his full-length report* to the Human Rights Council, he also called on States "to conduct human rights, health and environmental impact assessments before and after entering into bilateral and multilateral investment agreements." "Over the past decades free trade and investment agreements have had adverse impacts on the enjoyment of human rights by interfering with the State's fundamental functions to legislate in the public interest and regulate fiscal, budgetary, labour, health and environmental policies," said Mr. de Zayas, the first UN Independent Expert on the promotion of a democratic and equitable international order" <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16439&LangID=E>

Full report available from this link:

<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Pages/ListReports.aspx> here [A/HRC/30/44](#)

'Report of the Independent Expert on the promotion of a democratic and equitable international order, Alfred-Maurice de Zayas': www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_44_ENG.docx

The ISDS provisions of the TPP will provide opportunities for transnational corporations to chill government legislation (both NZ and globally) to limit greenhouse gas emissions to reduce anthropogenic climate change, and to promote renewable energy alternatives with positive programs. There are many references which provide evidence to support this claim, including the lack of support within TPP for climate change reduction measures. This article from the Australian academic blog 'The Conversation' explores the Canadian experience of ISDS as a partner to the NAFTA agreement: <https://theconversation.com/canada-has-an-isds-clause-with-the-us-it-has-faced-35-challenges-is-this-australias-future-48757>

This Andrew Geddis (Otago Law Professor) Pundit blog, 'For one thing, it is misleading to imply that existing ISDS provisions haven't had any impact on NZ's laws and policies. The Smoke-free Environments (Tobacco Plain Packaging) Amendment Bill currently is sitting on the House of Representative's Order Paper awaiting the outcome of an action brought against Australia by the Philip Morris cigarette company under an ISDS procedure': <http://pundit.co.nz/content/of-tps-isds-and-the-constitution>

Comment #5 on this blog specifically addresses the issue of ISDS and government ability to regulate greenhouse gas emission reductions to alleviate climate change.

4: Communication

The outcome of this motion should be communicated to GW CEO Greg Campbell, Minister of Trade the Hon Tim Grosser and to President of LGNZ Lawrence Yule.

5: Decision making and Significance

The matters requiring decision in this report have been considered against the requirements of Part 6 of the Local Government Act 2002. Part 6 sets out the obligations of local authorities in relation to the making of decisions.

5.1 Significance of the decision

Part 6 requires Greater Wellington Regional Council to consider the significance of the decision.

I have considered the significance of the matter, taking the Council's significance and engagement policy and decision-making guidelines into account. I recommend that the matter be considered to have low significance.

5.2 Engagement

Engagement with the public is unnecessary.

6: Recommendations

That the Council:

- 1: Notes the content of the report
- 2: Reviews the Trans Pacific Partnership (TPP) text against the TPP Policy Solution adopted by Councils representing a majority (60%) of the NZ population.
3. Request the Chief Executive to conduct an analysis of the TPP text and deliver a report to Council assessing the TPP implications, the object being to determine the impact that the TPP will have on Greater Wellington Regional Council's ability to make decisions in the interests of our region, the people and their environment.□□
4. Asks that central government Initiates a full public and parliamentary debate before proceeding with formal consideration of the TPP including Formal Signing.
5. Asks that central government carry out human rights, health and environmental impact assessments of the potential effects of the TPP on the people and the land of New Zealand, as urged by the United Nations independent expert Alfred de Zayas, and make this information publicly available.
6. Asks that central government consults with local government prior to any further action taken that might compromise the ability of local government to make decisions in the interests of our region, the people and their environment.

Cr Paul Bruce

27 October 2015



Attachment 1

12 Point TPP Policy Solution Adopted By Councils

The following TPP resolution has been adopted by Auckland City, Nelson City Council, Tasman District Council, Christchurch City Council, Dunedin City Council, Wellington City Council, Hutt City Council, Upper Hutt City Council, Kapiti Coast District Council, Palmerston North City Council, Tauranga City Council and South Wairarapa District Council representing 60% of the population of New Zealand.

More councils have it under active consideration, including Hastings District Council and Wairarapa Councils. Additionally Horizons Regional and Horowhenua District Councils have written to Central Government expressing concern.

Waikato Regional Council passed a motion that Council write to Minister Tim Groser inviting him or an appropriate representative to present to Council at the earliest opportunity on the implications of the TPPA for New Zealand.

If you would like advice on how to get your local council to adopt these resolutions, please contact Greg Rzesniowiecki on 021 024 31632.

TPPA resolution for Local Government:

That (name of Council) Council encourages the government to conclude negotiations on the Trans-Pacific Partnership and Free Trade Agreements in a way that provides net positive benefits for the (name of local region or city) Region and New Zealand, that is, provided the Partnership and Agreements achieve the following objectives:

1. Continues to allow the (name) Council and other Councils, if they so choose, to adopt procurement policies that provide for a degree of local preference; to choose whether particular services or facilities are provided in house, by council-controlled organisations (CCOs) or by contracting out; or to require higher health and safety, environmental protection, employment rights and conditions, community participation,

- animal protection or human rights standards than national or international minimum standards;
2. Maintains good diplomatic and trade relations and partnerships for (local region) and New Zealand with other major trading partners not included in the agreement including with China
 3. Provides substantially increased access for our agriculture exports, particularly those from the (name of) region into the US Market;
 4. Does not undermine PHARMAC, raise the cost of medical treatments and medicines or threaten public health measures, such as tobacco control;
 5. Does not give overseas investors or suppliers any greater rights than domestic investors and suppliers such as through introducing Investor-State Dispute Settlement, or reduce our ability to control overseas investment or finance;
 6. Does not expand intellectual property rights and enforcement in excess of current law;
 7. Does not weaken our public services, require privatisation, hinder reversal of privatisations, or increase the commercialization of Government or of (insert name) Council or other local government organisations
 8. Does not reduce our flexibility to support local economic and industry development and encourage good employment and environmental practices and initiatives like the (insert examples), and the Mayor's Taskforce for Jobs which enable marginalised young people to develop their skills and transition into meaningful employment;
 9. Contains enforceable labour clauses requiring adherence to core International Labour Organisation conventions and preventing reduction of labour rights for trade or investment advantage;
 10. Contains enforceable environmental clauses preventing reduction of environmental and biosecurity standards for trade or investment advantage;
 11. Has general exemptions to protect human rights, the environment, the Treaty of Waitangi, and New Zealand's economic and financial stability;
 12. Has been negotiated with real public consultation including regular public releases of drafts of the text of the agreement, and ratification being conditional on a full social, environmental, and economic impact assessment including public submissions.

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Attachment 2,

File: E/12/01/04

Report 13.1049

Wellington Regional Council

Minute extract from meeting held on 12 December 2013

Notice of motion – Cr Paul Bruce

Report 13.1049

File: E/12/01/04

Moved

(Cr Bruce/ Cr Wilson)

That the Council expresses concern at the lack of information available to it regarding the potential implications of the Trans-Pacific Partnership Agreement for the roles and responsibilities of local government in general, and the Wellington region in particular, and conditions its support for the agreement and other similar agreements on being satisfied, after effective consultations, that it complies with all the following conditions:

- 1. Continues to allow the Greater Wellington Regional Council and other Councils, if they so choose, to adopt procurement policies that provide for a significant degree of local preference; to choose whether particular services or facilities are provided in house, by council-controlled organisations (CCOs) or by contracting out; or to require higher health and safety, environmental protection, employment rights and conditions, community participation, animal protection or human rights standards than national or international minimum standards.*
- 2. Does not give overseas investors or suppliers any greater rights than domestic investors and suppliers, such as special protections for investments or access to Investor-State Dispute Settlement, or reduce our ability to control overseas investment or finance;*
- 3. Will be subject, before it is signed, to a full and independent social, environmental and economic impact assessment that is then opened for public submissions; and*
- 4. Will not be ratified until the text has been tabled in the House and the appropriate select committees, including the Local Government and Environment Committee, have had adequate time to consider the parts that are relevant to their responsibilities, call for and hear submissions, and report back to the House on whether any amendment is required, and for a vote.*

Moved as an amendment (to replace the original motion)

(Cr Laidlaw/ Cr Aitken)

That the Council expresses concern at the lack of information available on the potential implications of the Trans-Pacific Partnership Agreement for New Zealand and for local government and, while accepting that treaty negotiations are generally confidential:

- 1. Notes public reports that the New Zealand negotiators, along with those from other like-minded countries, do not agree with a number of proposed measures including those pertaining to pharmaceuticals, intellectual property protection and environmental measures;*
- 2. Notes that the TTP, as with all trade agreements, will go through the full parliamentary process and, once that is complete, any law changes necessary to ensure New Zealand's compliance with the Treaty must be passed by Parliament; and*
- 3. Urges the government to instruct its negotiating team to continue to oppose measures that would have unjustifiable negative impact on the ability of local government to make decisions on a range of options, including procurement, that are currently available under New Zealand Law.*

The amendment was **CARRIED** and became the substantive motion.

The substantive motion was then put to the vote and was **CARRIED**.

Noted: Councillors Bruce and Kedgley requested their votes against part 2 of the motion be recorded.

Noted: With the consent of the meeting Cr Wilde tabled information on the process that would be followed after any Cabinet decision that the Trans-Pacific Partnership Agreement should be signed.